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REMARKS

The Examiner has objected to the drawings as failing to comply with 37 CFR 1.84(p)(4) because reference to character "20" has been used to designate both "Divide scan into n tasks and identify other computers to issue (n-1) tasks to" and "Own task complete." Applicant has submitted herewith a corrected drawing sheet for Figure 2 in compliance with 37 CFR 1.121(d) to avoid such objection. Applicant has also amended the specification hereinabove to comply with the corrected drawing sheet.

The Examiner has objected to Claims 9, 24 and 39 due to informalities. Applicant has clarified the foregoing claims to avoid such objection.

The Examiner has provisionally rejected Claims 1, 7 13, 16, 22, 28, 31, 37 and 43 on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1, 3, 4, 24, 26, 27, 46, 48 and 49 of co-pending Application No. 09/881,058. Applicant has submitted herewith a terminal disclaimer to overcome such provisional rejection.

The Examiner has rejected Claims 1, 5-8, 12, 13, 16, 20-23, 27, 28, 31, 35-38, 42 and 43 under 35 U.S.C. 102(e) as being anticipated by Gryaznov et al. (U.S. Patent No. 6,748,534). Applicant respectfully disagrees with such rejection.

With respect to independent Claims 1, 16 and 31, the Examiner has relied on Figures 3-4C; Col. 2, lines 43-67; Col. 5; Col. 6; and Col. 7, lines 1-42 in Gryaznov to make a prior art showing of applicant's claimed "scan dividing logic operable to divide said on-access malware scan into a plurality of tasks" and "result collating logic operable to collate a plurality of task results corresponding to said plurality of tasks and received from said plurality of different computer to form a scan result corresponding to said on-access malware scan" (see the same or similar, but not necessarily identical language in each of the foregoing claims).

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Applicant respectfully asserts that Gryaznov only teaches a plurality of malware scanners, each associated with a database, that each concurrently scan data items within their associated database (see abstract). Thus, Gryaznov teaches partitioned scanning, but such partition relates to separate databases that are each scanned by a separate scanner. Clearly, partitioning <u>data</u> among databases, in the manner disclosed by Gryaznov, does not meet applicant's claimed "divid[ing] said on-access malware <u>scan</u> into a plurality of <u>tasks</u>" (emphasis added).

In addition, applicant notes that Gryaznov merely discloses that "each virus scanner...maintains a log file and posts an appropriate warning to the affected newsgroups...[and that] a warning message is also sent to a specified list of addressees" (see Col. 7, lines 42-44). Clearly, each virus scanner posting its own warning does not even suggest "<u>collat[ing] a plurality of task results</u> corresponding to said plurality of tasks and received from said plurality of different computer to form a scan result corresponding to said on-access malware scan," as applicant claims (emphasis added).

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Gryaznov reference, as noted above. A notice of allowance or a specific prior art showing of each of the foregoing claimed features, in combination with the remaining claimed features, is respectfully requested.

It should be noted that applicant has amended independent Claims 13, 28 and 43 to include the following claim language which is deemed allowable for reasons at least

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substantially similar to those set forth hereinabove with respect to the remaining independent claims:

> "wherein said malware scanning task is one of a plurality of malware scanning tasks that comprise said on-access malware scan;
> wherein a plurality of malware scanning task results corresponding to said plurality of malware scanning tasks are collated to form a scan result corresponding to said on-access malware scan."

Applicant further notes that the prior art is also deficient with respect to the dependent claims. Just by way of example, with respect to Claim 2 et al., as rejected under 35 U.S.C. 103(a) as being unpatentable over Gryaznov in view of Gartside (U.S. Patent No. 6,851,058), the Examiner has relied on Col. 3, lines 40-48; Col. 4, lines 39-48; and Col. 1, lines 53-63 in Gartside to make a prior art showing of applicant's claimed technique "wherein said scan dividing logic divides said computer file into a plurality of component computer files to be separately scanned as said plurality of tasks."

Applicant respectfully asserts that Gartside simply teaches extracting embedded archived attachments and then only scanning the final embedded non-archive file (see Col. 3, lines 36-49 and Figure 2). Clearly, only scanning a final embedded non-archive file does not meet applicant's claimed "divid[ing] said computer file into a plurality of component computer files to be separately scanned as said plurality of tasks" (emphasis added). In addition, Garside separately teaches scanning an archive itself (Col. 4, lines 39-48 and Figure 3), but not that such archive is divided into a plurality of component computer files, in the manner claimed by applicant.

With respect to Claim 5 et al., the Examiner has relied on Col. 6, lines 1-13 in Gryaznov to make a prior art showing of applicant's claimed technique "wherein said scan dividing logic divides said on-access malware scan into a plurality of on-access malware scans for identifying different properties of said computer file, said plurality of on-access malware scans being separately performed as said plurality of tasks."

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Applicant notes that the excerpt in Gryaznov relied on by the Examiner only discloses that "each virus scanner...scans a dynamically definable partition of the news message." Clearly, partitioning a message for scanning by a plurality of scanners, as in Gryaznov, does not even suggest "divid[ing] said on-access malware scan into a plurality of on-access malware scans for identifying different properties of said computer file," as applicant specifically claims (emphasis added).

With respect to Claim 8 et al., the Examiner has relied on Col. 7, lines 26-34 in Gryaznov to make a prior art showing of applicant's claimed technique "wherein one or more of said tasks are liner divided into sub-tasks." Applicant respectfully asserts that such excerpt only discloses downloading a message, detaching attachments from the message, and updating a message ID associated with the message. Clearly, such disclosure does not even suggest "one or more of said tasks [that] are liner divided into sub-tasks," as claimed by applicant (emphasis added).

Since the Gryaznov reference, when taken alone or in combination with the Gartside reference, does not teach or suggest all of the claim limitations, as noted above, a notice of allowance or a proper prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 46-51 below, which are added for full consideration:

"wherein said scan dividing logic divides said on-access malware scan in response to a complexity metric exceeding a predetermined threshold, where the complexity metric is dependent on at least one parameter" (see Claim 46);

"wherein the parameter includes at least one of a computer file type, a level of nesting of embedded computer files, an initial attempt to scan said computer file which exceeded a predetermined time, and a level of utilization of a local processor" (see Claim 47);

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"wherein the complexity metric is dependent on a plurality of parameters including a computer file type, a level of nesting of embedded computer files, an initial attempt to scan said computer file which exceeded a predetermined time, and a level of utilization of a local processor" (see Claim 48);

"wherein an amount said complexity metric exceeds said predetermined threshold determines a number of tasks into which said on-access malware scan is divided" (see Claim 49);

"wherein if one of said plurality of task results indicates that malware has been detected in said computer file, remaining tasks in said plurality of tasks that are pending are terminated" (see Claim 50); and

"wherein said plurality of tasks are distributed among said plurality of different computers via a network" (see Claim 21).

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P466/01.042.01).

Respectfully submitted,
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